

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-24074-2023

Date of decision : 20.10.2023

Rajneesh Chaudhary and others

... Petitioners

Versus

The Union Territory, Chandigarh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Mansur Ali, Advocate and
Mr. Raj Sumer Singh, Advocate
for the petitioners.

Mr.Anuj Raura, Advocate
for respondents no.4 and 5.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction staying the operation of order dated 18.09.2023 (Annexure P-2) passed by respondent no.3, during the pendency of the appeal before respondent no.2.

2. Learned counsel for the petitioners has submitted that against the order dated 18.09.2023, the petitioners had filed the appeal dated 04.10.2023 (Annexure P-4) along with an application for stay but since respondent no.2 is on leave, thus, neither the appeal nor the application for stay have been taken up much less, for the preliminary hearing and in the meantime, the period of one month, as ordered vide order dated 18.09.2023 (Annexure P-2) would expire on 23.10.2023 as the copy of the order was supplied to the petitioners on 23.09.2023. It is prayed that respondent no.2

be directed to consider the appeal for preliminary hearing along with the

application for stay within a period of two weeks from today and to pass an appropriate order on the application for stay. It is further submitted that since the appeal has been filed within limitation, thus, till the time the case is taken up for preliminary hearing and the application for stay is considered, status quo as it exists today be maintained till such time.

3. Learned counsel appearing for respondents no.4 and 5 has submitted that grant of any such status quo order should not be construed as an expression on the merits of the case and the application for stay should be considered independently by respondent no.2.

4. Keeping in view the above said facts and circumstances, the present petition is disposed of with a direction to respondent no.2 to take up the appeal filed by the petitioners against the order dated 18.09.2023 (Annexure P-2) along with the application for stay within a period of 2 weeks from today and pass an appropriate order on the application for stay, in accordance with law. Till the time the appeal along with the application for stay is not taken up for preliminary hearing, status quo as it exists, be maintained with respect to the property in question. It is made clear that the order of status quo should not be construed as an expression on the merits of the case and respondent no.2 would consider the appeal along with the application for stay independently, in accordance with law and would not be swayed by the grant of the said interim order which is being granted only on account of the fact that the appeal along with the application for stay have not been taken up and respondent no.2 is stated to be on leave. It is open to all the parties to raise all the pleas at the time of preliminary hearing of the appeal and of the application for stay.

5. It is made clear that this Court has not opined on the merits of the case and respondent no.2 would consider the appeal along with the

application for stay independently, in accordance with law.

(VIKAS BAHL)
JUDGE

October 20, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No